

Principal Changes in the Federal and Tenth Circuit Rules for 2008

I. Federal Rules of Appellate Procedure.

There will be an addition to Rule 25 identified as new Rule 25(a)(5). It states:

(5) Privacy Protection. An appeal in a case whose privacy protection was governed by Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2, or Federal Rule of Criminal Procedure 49.1 is governed by the same rule on appeal. In all other proceedings, privacy protection is governed by Federal Rule of Civil Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extraordinary writ is sought in a criminal case.

II. Addenda to the Rules.

Plan For Attorney Disciplinary Enforcement

The proposed draft makes a ministerial change to section 4.3 of the Attorney Disciplinary Plan. That paragraph currently includes a sentence which states “[t]he disciplinary panel consists of three active circuit judges who are randomly selected for the particular proceeding.” The new sentence states “[t]he disciplinary panel consists of three active circuit judges appointed by the Chief Judge.”

III. Tenth Circuit Rules.

A. 10th Cir. R. 31.3(A) (Joint Briefing in civil appeals)

The language in the proposal clarifies and confirms the current procedure, which allows only one reply brief to be filed (absent motion) in cases with multiple appellees’ response briefs. The proposed change states:

(A) Multiple parties. In civil cases involving more than one appellant or appellee, including consolidated cases, all parties on a side (including intervenors) must—to the extent practicable—file a single brief. Where, however, multiple response briefs are filed

pursuant to 10th Cir. R. 31.3(B), the appellant may file only one reply except upon motion to the court seeking an exception.

B. 10th Cir. R. 31.5 (Service Copies)

The language of the proposed rule confirms service requirements with respect to service on counsel and pro se parties. It states:

31.5 Number of copies. A party (or amicus) must file an original and 7 copies of briefs and supplemental authorities. Counsel may be required to furnish additional copies if needed. *In addition, a party (or amicus) must serve a single copy of all filings on each unrepresented party and all counsel for each separately represented party.*

Interested parties should note that in accord with the requirements of the court's new *General Order regarding Electronic Submission of Documents and Conversion to an Electronic Case Management System*, this service may be accomplished via email. Please see www.ca10.uscourts.gov for a copy of the Order.

C. 10th Cir. R. 8.2(A)(4) (Emergency or Ex Parte Motions)

The language of the proposed rule updates procedures with respect to emergency motions to require counsel to include email addresses in the motion. The proposed rule states:

8.2(A) Emergency relief. Any motion that requests a ruling within 48 hours after filing must be plainly marked "EMERGENCY" and *must be* accompanied by a certificate stating:

....

(4) the telephone numbers and email addresses for all counsel of record and where available, unrepresented parties.

D. 10th Cir. R. 27.2

Proposed changes have been made to 10th Cir. local rule 27.2 with regard to *Motions To Enforce Appeal Waivers*. Interested parties should review both the

redline and non-redline versions of the changes on the court's website.

E. Changes Regarding the Number of Hard Copies Required (in several locations within the local rules)

In several locations within the local rules, the court has added proposed changes to comport with the court's *General Order* regarding *Electronic Submission of Documents and Conversion to an Electronic Case Management System*. Specifically, these changes address the number of hard copies required to be sent to the court. All of those changes are included in the redline and non-redline proposed versions of the rules. Interested parties may also want to review the Order, which, as noted above, can be found on the circuit's website at www.ca10.uscourts.gov